

CHAPTER 21

PUPIL TRANSPORTATION

Authority

N.J.S.A. 18A:1-1, 18A:4-15, 18A:39-21, and 18A:7D-18.

Source and Effective Date

R.1994 d.404, effective July 11, 1994.
See: 26 N.J.R. 1997(a), 26 N.J.R. 3164(a).

Chapter Expiration Date

Pursuant to Executive Order No. 22(1994), Chapter 21, Pupil Transportation, expires on January 11, 2001. See: 26 N.J.R. 3783(a) and 3942(a).

Chapter Historical Note

This chapter became effective prior to September 1, 1969.

Revisions for 1970: Amendments became effective May 13, 1970 as R.1970 d.54. See: 2 N.J.R. 30(e), 2 N.J.R. 48(a).

Revisions for 1972: Amendments became effective January 14, 1972 as R.1972 d.5. See: 3 N.J.R. 245(a), 4 N.J.R. 21(a). (This adoption amended sections 1, 3, 4(a), 5, 6, 8, 9, 16, 17, 19(b), 23(a), 24, 25, 28 and 29). New rule 11.4 became effective April 17, 1972 as R.1972 d.69. See: 4 N.J.R. 43(c), 4 N.J.R. 96(a). Amendments were adopted as R.1972 d.188, effective September 22, 1972. See: 4 N.J.R. 262(d). Amendments became effective November 6, 1972 as R.1972 d.220. See: 4 N.J.R. 231(a), 4 N.J.R. 302(a).

Revisions for 1973: Subchapter 18, concerning Type II Van Type Small Vehicles was effective on vehicles manufactured after March 1, 1973. This subchapter became effective January 10, 1973 as R.1973 d.18. See: 4 N.J.R. 301(b), 5 N.J.R. 38(a). Amendments became effective March 13, 1973 as R.1973 d.73. See: 5 N.J.R. 33(c), 5 N.J.R. 104(c). New rule, 11.6, became effective April 9, 1973 as R.1973 d.98. See: 5 N.J.R. 78(b), 5 N.J.R. 139(a). Section 5.11 was amended, effective May 7, 1973, as R.1973 d.123. See: 5 N.J.R. 103(c), 5 N.J.R. 185(a). Further amendments became effective June 20, 1973 as R.1973 d.161. See: 5 N.J.R. 138(a), 5 N.J.R. 220(a). Further amendments became effective July 3, 1973 as R.1973 d.180. See: 5 N.J.R. 184(c), 5 N.J.R. 260(a). Further amendments became effective September 20, 1973 as R.1973 d.267. See: 5 N.J.R. 219(a), 5 N.J.R. 333(a).

Revisions for 1974: Amendments became effective April 11, 1974 as R.1974 d.90. See: 6 N.J.R. 99(a), 6 N.J.R. 172(c). Further revisions became effective June 12, 1974 as R.1974 d.141. See: 6 N.J.R. 172(b), 6 N.J.R. 258(a). Further amendments became effective July 1, 1974 as R.1974 d.176. See: 6 N.J.R. 227(a), 6 N.J.R. 302(c).

Revisions for 1975: Amendments became effective January 14, 1975 as R.1975 d.5. See: 6 N.J.R. 467(a), 7 N.J.R. 46(b) and R.1975 d.6. See: 6 N.J.R. 470(a), 7 N.J.R. 46(c).

Revisions for 1976: Amendments became effective November 4, 1976 as R.1976 d.342. See: 8 N.J.R. 546(b). Subchapter 19 concerning School Bus Warning Lamps (Strobe) became effective May 1, 1977 as R.1976 d.386. See: 8 N.J.R. 454(a), 9 N.J.R. 12(b).

Revisions for 1977: Amendments became effective August 3, 1977 as R.1977 d.277. See: 9 N.J.R. 416(d).

Revisions for 1978: Subchapter 5 was substantially amended by the replacement of the original text and numbering with new subchapter 6 to be applicable to all buses manufactured after October 1, 1978, effective July 7, 1978 as R.1978 d.226. See: 10 N.J.R. 319(c).

Revisions for 1980: Amendments became effective September 5, 1980 as R.1980 d.382. See: 12 N.J.R. 453(b), 12 N.J.R. 569(e).

Revisions for 1983: Subchapter 5 was repealed and new rules adopted; Subchapter 6 concerning School Bus Body and Equipment Specifications was repealed and Subchapter 19, Rules Mandated for School Buses manufactured after May 1, 1977, was repealed effective June 20, 1983 as R.1983 d.247. See: 15 N.J.R. 383(a), 15 N.J.R. 1019(a). Amendments became effective October 17, 1983 as R.1983 d.457. See: 15 N.J.R. 982(b), 15 N.J.R. 1740(a).

Revisions for 1985: Amendments and new rules became effective August 5, 1985 as R.1985 d.396. See: 17 N.J.R. 1035(a), 17 N.J.R. 1875(a). Subchapter 1 was repealed pursuant to Executive Order 66(1978) effective August 9, 1985 with amendments effective September 3, 1985 as R.1985 d.451. See: 17 N.J.R. 1365(a), 17 N.J.R. 2107(a).

Revisions for 1986: Amendments became effective May 5, 1986 as R.1986 d.156. See: 18 N.J.R. 138(a), 18 N.J.R. 975(a).

Revisions for 1987: Amendment repealed sections 10.2 and 10.3; amended 10.1 and renumbered 10.4 to 10.2 effective February 2, 1987 as R.1987 d.94. See: 18 N.J.R. 2155(a), 19 N.J.R. 290(a). Subchapter 18, Inspection, was adopted as R.1987 d.184, effective April 20, 1987. See: 19 N.J.R. 5(a), 19 N.J.R. 633(b).

Pursuant to Executive Order No. 66(1978), Chapter 21, Pupil Transportation, was readopted as R.1989 d.610, effective November 22, 1989. See: 21 N.J.R. 2724(a), 21 N.J.R. 3939(a). Subchapter 11, Drivers; Subchapter 13, Bid Specifications; Subchapter 14, Bond; and Subchapter 15, Bidding, were repealed and replaced by R.1989 d.610, effective December 18, 1989. Subchapter 12, Advertising for Bids, was repealed and reserved by R.1989 d.610, effective December 18, 1989. Subchapter 19, Pupil Transportation Governance and Administration, was a new rule adopted by R.1989 d.610, effective December 18, 1989. See: 21 N.J.R. 2724(a), 21 N.J.R. 3939(a).

Subchapter 12, Use of School Buses Other Than To and From School and School Related Activities, was adopted as R.1993 d.272, effective June 7, 1993. See: 25 N.J.R. 1095(a), 25 N.J.R. 2249(a). Subchapters 6, 6A, 6B and 6C, regarding standards for buses used for pupil transportation, were adopted as R.1992 d.397, effective November 2, 1992 (operative May 21, 1993). See: 24 N.J.R. 2109(a), 24 N.J.R. 4069(a).

Pursuant to Executive Order No. 66(1978), Chapter 21 was readopted as R.1994 d.404. See: Source and Effective Date. Subchapter 5, Standards for School Buses, was repealed and a new Subchapter 5, Standards for School Buses Manufactured July 1985 through May 1993, was adopted as a part of R.1994 d.404, effective August 1, 1994. See: 26 N.J.R. 1997(a), 26 N.J.R. 3164(a). See, also, section annotations.

N.J.A.C. 6:21-4.1, Capacity, Subchapter 5, Standards for School Buses Manufactured July 1985 through May 1993, Subchapter 6, Standards for Buses Used for Pupil Transportation Manufactured June, 1993 or Thereafter, Subchapter 6A, Chassis Standards, Subchapter 6B, Body Standards, Subchapter 6C, Specially Equipped School Bus Standards, Subchapter 8, Use of Vehicles as School Buses Under the Jurisdiction of the Department of Transportation, Subchapter 9, Small Vehicle Standards, Subchapter 17, Insurance, Subchapter 18, Inspection, and Appendix, were recodified as N.J.A.C. 13:20-49C.5, Capacity, 13:20-49, Standards for School Buses Manufactured July 1985 through May 1993, 13:20-49A, Standards for Buses Used for Pupil Transportation Manufactured June, 1993 or Thereafter, 13:20-49B, Chassis Standards, 13:20-49C, Body Standards, 13:20-49D, Specially Equipped School Bus Standards, 13:20-49E, Use of Vehicles as School Buses Under the Jurisdiction of the Department of Transportation, 13:20-49F, Small Vehicle Standards, 13:20-49H, Insurance, 13:20-49G, Inspection, and 13:20-49 Appendix, respectively, by administrative change. See: 32 N.J.R. 3090(a).

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SUBCHAPTER 1. GENERAL PROVISIONS

6:21-1.1 General requirements

(a) Under the provisions of the New Jersey Statutes, the State Board of Education shall adopt and enforce rules consistent with law to cover the design and operation of all school buses used in the transportation of public school pupils to and from school and school related activities including the transportation of nonpublic school pupils by a district board of education.

(b) Transportation of pupils attending public or nonpublic schools shall be provided pursuant to N.J.S.A. 18A:39-1 et seq.

(c) All forms prescribed by the Commissioner of Education referred to in this chapter are available in the office of the county superintendent of schools, and at the Bureau of Pupil Transportation, Department of Education, 240 West State Street, PO Box 500, Trenton, New Jersey 08625-0500.

(d) It is recommended that district boards of education and school bus contractors acquaint themselves with the procedures described in the Department of Education Policies and Procedures Manual for Pupil Transportation to ensure efficiency in the implementation of a pupil transportation program. This manual is available for review at the transportation office of the district board of education, the office of the county superintendent of schools and the Bureau of Pupil Transportation.

Amended by R.1985 d.451, effective September 3, 1985.

See: 17 N.J.R. 1365(a), 17 N.J.R. 2107(a).

Added "1967" to Standards published, rules effective changed from "1967" to "1985".

Amended by R.1989 d.610, effective December 18, 1989.

See: 21 N.J.R. 2724(a), 21 N.J.R. 3939(a).

Retitled, formerly "Rules" and repealed and replaced (c) and (d).

Amended by R.1994 d.404, effective August 1, 1994.
See: 26 N.J.R. 1997(a), 26 N.J.R. 3164(a).

Case Notes

School bus stop was not unsafe and would not be moved on request of parent claiming danger due to visibility problems and speed of traffic. *Handel v. Green Board of Education*, 95 N.J.A.R.2d (EDU) 526.

Refusal to reestablish bus stop was arbitrary and capricious. *Peary v. Barnegat Township Board of Education*, 93 N.J.A.R.2d (EDU) 798.

State aid reimbursement; prior approval of purchase by county superintendent. *Hillsborough Township Board of Education v. Saul Cooperman*, Commissioner of Education, and New Jersey Department of Education, 92 N.J.A.R.2d (EDU) 141.

6:21-1.2 Accident reporting

(a) Every school bus driver shall immediately inform the principal of the receiving school and the school business administrator of the district board of education providing for the transportation following an accident which involves an injury, death or property damage. The driver shall also complete and file the Preliminary School Bus Accident Report prescribed by the Commissioner of Education.

(b) In addition to the Preliminary School Bus Accident Report, the driver of a school bus involved in an accident resulting in injury or death of any person, or damage to property of any one person in excess of \$500.00 shall within 10 days after such accident complete and file a Motor Vehicle Accident Report in accordance with N.J.S.A. 39:4-130.

(c) Each district board of education shall establish policies and procedures to be followed by the school bus driver in the event of an emergency.

R.1972 d.220, effective November 6, 1972.
See: 4 N.J.R. 231(a), 4 N.J.R. 302(a).
Amended by R.1985 d.451, effective September 3, 1985.
See: 17 N.J.R. 1365(a), 17 N.J.R. 2107(a).
Section substantially amended and (c) added.
Amended by R.1989 d.610, effective December 18, 1989.
See: 21 N.J.R. 2724(a), 21 N.J.R. 3939(a).
References to specific forms to be filed added.
Amended by R.1994 d.404, effective August 1, 1994.
See: 26 N.J.R. 1997(a), 26 N.J.R. 3164(a).

6:21-1.3 Remote defined

(a) The words "remote from the schoolhouse" shall mean beyond $2\frac{1}{2}$ miles for high school pupils (grades 9 through 12) and beyond two miles for elementary pupils (grades kindergarten through eight), except for educationally handicapped pupils.

(b) For the purpose of determining remoteness in connection with pupil transportation, measurement shall be made by the shortest route along public roadways or public walkways from the entrance of the pupil's residence nearest such public roadway or public walkway to the nearest public entrance of the assigned school.

R.1972 d.220, effective November 6, 1972.
See: 4 N.J.R. 231(a), 4 N.J.R. 302(a).
Amended by R.1976 d.342, effective November 4, 1976.
See: 8 N.J.R. 546(b).
Amended by R.1985 d.451, effective September 3, 1985.
See: 17 N.J.R. 1365(a), 17 N.J.R. 2107(a).
"8" changed to "eight".
Amended by R.1989 d.610, effective December 18, 1989.
See: 21 N.J.R. 2724(a), 21 N.J.R. 3939(a).
At (a) added category of "educationally handicapped pupils".

Law Review and Journal Commentaries

Education—Busing. P.R. Chenoweth, 137 N.J.L.J. 52 (1994).

Case Notes

Walkway was as safe as any other sidewalk, and walkway qualified as public thoroughfare for purposes of calculating whether students who used walkway resided more than two miles from school and had to be bused. *Board of Educ. of Tp. of Wayne v. Kraft*, 139 N.J. 597, 656 A.2d 430 (1995).

Safety considerations required that walkway in isolated and wooded area could not be used for determining whether students were eligible for mandatory free pupil transportation. *Board of Educ. of Tp. of Wayne v. Kraft*, 274 N.J.Super. 211, 643 A.2d 1029 (A.D.1994), certification granted 138 N.J. 267, 649 A.2d 1287, reversed 139 N.J. 597, 656 A.2d 430.

Safety and welfare of children is purpose of statute requiring transportation of elementary pupils living more than two miles from school. *Board of Educ. of Tp. of Wayne v. Kraft*, 274 N.J.Super. 211, 643 A.2d 1029 (A.D.1994), certification granted 138 N.J. 267, 649 A.2d 1287, reversed 139 N.J. 597, 656 A.2d 430.

Private roads; remoteness from school. *Board of Educ. of Tp. of Wayne v. Kraft*, 274 N.J.Super. 211, 643 A.2d 1029 (A.D.1994), certification granted 138 N.J. 267, 649 A.2d 1287, reversed 139 N.J. 597, 656 A.2d 430.

State Board of Education properly interpreted of regulation delineating distance from pupil's residence which renders school remote to include in calculation driveway running from public roadway. *Nelson v. Board of Educ. of Borough of Glen Ridge*, 246 N.J.Super. 467, 587 A.2d 1327 (A.D.1991).

Statute providing for reimbursement to parent of expenses for private school transportation within the State upheld against equal protection constitutional challenge. *Reed v. State Attorney General*, 195 N.J.Super. 172, 478 A.2d 788 (App.Div.1984).

School district was required to provide transportation for children when distance covered between home and school was beyond two-mile limit. *Nichols v. Wayne Board of Education*, 95 N.J.A.R.2d (EDU) 157.

Right to free transportation; route to school measured along available sidewalks and existing marked crosswalks. *Nichols v. Wayne Township Board of Education*, 93 N.J.A.R.2d (EDU) 701.

Students not entitled to busing; students lived within two miles of school. *Potter, et al., v. Board of Education of Township of Wayne*, 93 N.J.A.R.2d (EDU) 162.

Courtesy school busing policy; not arbitrarily applied to student living within one mile of school. *Buonocore v. Hillsdale Borough Board of Education*, 92 N.J.A.R.2d (EDU) 655.

Walkway was "public walkway" for purpose of determining remoteness from school house. *Board of Education of Township of Wayne v. Kraft, O'Keefe, Brooks, Moriarty, Glazer, Et Al*, 92 N.J.A.R.2d (EDU) 111.

Policy behind and meaning of "remoteness": "W.C." and "M.L." Horner, individually and as parents and natural guardians of "W.L.H."

and "J.R.H." v. Bd. of Ed. Kinsway Reg. H.S. Dist., Gloucester Cty., 1979 S.L.D. 487, 1979 S.L.D. 493.

Application of hazard exception. Beggans v. Bd. of Ed., W. Orange, Essex Cty., 1974 S.L.D. 834, 1975 S.L.D. 1071.

6:21-1.4 Retirement of school buses

(a) School buses manufactured prior to April 1, 1977, other than those of the transit type whose gross vehicle weight (G.V.W.) exceeds 25,000 pounds, shall not be used for pupil transportation.

(b) School buses, Type I and Type II, as defined by N.J.S.A. 39:1-1, which are registered and inspected in this State, manufactured on or after April 1, 1977, other than those of the transit type whose gross vehicle weight (G.V.W.) exceeds 25,000 pounds, shall not be utilized for pupil transportation purposes beyond the end of the twelfth year from the year of manufacture, as noted on the vehicle registration, or at the end of the school year in which that year falls, whichever is later. Such buses, when used beyond the tenth year, shall have an annual in-depth inspection by the Division of Motor Vehicles prior to the ensuing school year.

(c) School buses of transit type whose gross vehicle weight (G.V.W.) exceeds 25,000 pounds shall not be used for pupil transportation purposes beyond the end of the twentieth year from the year of manufacture, as noted on the vehicle registration, or at the end of the school year in which that year falls, whichever is later.

R.1974 d.176, effective July 1, 1974.

See: 6 N.J.R. 227(a), 6 N.J.R. 302(c).

Amended by R.1980 d.382, effective September 5, 1980.

See: 12 N.J.R. 453(b), 12 N.J.R. 569(e).

(a) amended.

(c) deleted.

Amended by R.1983 d.457, effective October 17, 1983.

See: 15 N.J.R. 982(b), 15 N.J.R. 1740(a).

Added new (b) and recodified old (b) as (c).

Amended by R.1989 d.610, effective December 18, 1989.

See: 21 N.J.R. 2724(a), 21 N.J.R. 3939(a).

At (b) added Type I and Type II school buses and referenced statutory cite for definition.

Repealed and New Rule: R.1989 d.610, effective December 18, 1989.

See: 21 N.J.R. 2724(a), 21 N.J.R. 3939(a).

Case Notes

School district not providing transportation for public school students was not required to provide transportation to private school for students residing in district. T.J.F. and J.W.F. v. Wildwood Board of Education, 95 N.J.A.R.2d (EDU) 501.

Fear for safety while commuting did not render private school expenses reimbursable. B.J. v. Board of Educ. of the Township of Teaneck, 93 N.J.A.R.2d (EDU) 424.

6:21-2.2 Registration procedure

(a) The private school shall obtain the Application for Private School Transportation, as prescribed by the Commissioner of Education, from the public schools.

(b) It shall be the obligation of the parent or guardian of private school pupils to annually obtain the Application For Private School Transportation, as prescribed by the Commissioner of Education, from the administrative office of the private school in which the pupil is enrolled.

(c) Upon completion by the parent or guardian, the application shall be returned to the private school on or before May 1 preceding the school year in which transportation is being requested.

(d) The private school shall annually collect from the parent or guardian the applications and submit them to the public school from which transportation is being requested for registration and implementation prior to May 15.

(e) The public school shall notify the parent or guardian and private school as to the determination of each application by August 1.

(f) A late application shall be any application received by the district after May 15. Eligible pupils will receive transportation or aid in lieu of transportation based upon the date of receipt of the application by the public school.

(g) Prior to August 1, the public schools shall prepare the Private School Transportation Summary form as prescribed by the Commissioner of Education.

Amended by R.1975 d.5, effective January 14, 1975.

See: 6 N.J.R. 467(a), 7 N.J.R. 46(b).

Amended by R.1989 d.610, effective December 18, 1989.

See: 21 N.J.R. 2724(a), 21 N.J.R. 3939(a).

Late application redefined as after May 15 and references to specific forms added.

6:21-2.3 Time of transportation

Transportation, pursuant to N.J.S.A. 18A:39-1, shall be provided Monday through Friday between September 1 and June 30 when the nonprofit private school is in session.

SUBCHAPTER 2. REQUIREMENTS FOR NONPUBLIC SCHOOL TRANSPORTATION

6:21-2.1 General requirements

(a) Transportation or aid in lieu of transportation shall be provided in accordance with N.J.S.A. 18A:39-1 et seq.

(b) District boards of education shall adopt policies and procedures governing the transportation of pupils to and from school. Districts shall advertise for bids before determination is made to provide transportation or aid in lieu of transportation pursuant to N.J.S.A. 18A:39-1.

6:21-2.4 Grade level

Students eligible for transportation or aid in lieu of transportation shall be enrolled in grades kindergarten through grade 12. The determination of entrance age for pupils shall be in accordance with N.J.S.A. 18A:38-5 and 18A:44-2.

Amended by R.1989 d.610, effective December 18, 1989.

See: 21 N.J.R. 2724(a), 21 N.J.R. 3939(a).

"Aid in lieu of transportation" added.

6:21-2.5 School closings

Suspension of the operation of the pupil transportation system, due to inclement weather or other conditions, shall be the responsibility of the public school authorities providing the transportation.

Amended by R.1989 d.610, effective December 18, 1989.

See: 21 N.J.R. 2724(a), 21 N.J.R. 3939(a).

Corrected N.J.A.C. cite and referenced "inclement" weather.

6:21-2.6 Early withdrawal

The public school shall be immediately notified by the administrative agent of the private school when a pupil eligible for transportation or aid in lieu of transportation withdraws from the private school.

Amended by R.1975 d.5, effective January 14, 1975.

See: 6 N.J.R. 467(a), 7 N.J.R. 46(b).

Repealed and New Rule: R.1989 d.610, effective December 18, 1989.

See: 21 N.J.R. 2724(a), 21 N.J.R. 3939(a).

6:21-2.7 Certification of attendance

(a) Between January 1 and January 10 of each year, the private school administrator shall certify on forms prescribed by the Commissioner of Education, that the named pupils were enrolled for the first half of the academic year (September to January) and return the forms to the public school prior to January 15.

(b) The public school shall evaluate the January certification report and, if approved, shall pay aid in lieu of transportation to the parent or guardian of the eligible pupils after receiving a signed Request For Payment of Transportation Aid voucher as prescribed by the Commissioner of Education.

(c) Between May 1 and May 10 of each year, the private school administrator shall certify on forms prescribed by the Commissioner of Education that the named pupils were enrolled for the second half of the academic year, (January to June) and return the forms to the public school prior to May 15.

(d) The public school shall evaluate the May certification, and if approved, shall pay aid in lieu of transportation to the parent or guardian of the eligible pupils after receiving a signed Request For Payment of Transportation Aid voucher as prescribed by the Commissioner of Education.

(e) Upon request, the district board of education shall send to the county superintendent of schools the Private School transportation Summary.

(f) A district board of education shall not be required to pay aid in lieu of transportation when the Request for Payment of Transportation Aid voucher is received after the close of the fiscal year.

Amended by R.1975 d.5, effective January 14, 1975.

See: 6 N.J.R. 467(a), 7 N.J.R. 46(b).

Repealed and New Rule: R.1989 d.610, effective December 18, 1989.

See: 21 N.J.R. 2724(a), 21 N.J.R. 3939(a).

Amended by R.1994 d.404, effective August 1, 1994.

See: 26 N.J.R. 1997(a), 26 N.J.R. 3164(a).

6:21-2.8 (Reserved)

Amended by R.1975 d.5, effective January 14, 1975.

See: 6 N.J.R. 467(a), 7 N.J.R. 46(b).

Repealed by R.1989 d.610, effective December 18, 1989.

See: 21 N.J.R. 2724(a), 21 N.J.R. 3939(a).

6:21-2.9 (Reserved)

R.1975 d.5, effective January 14, 1975.

See: 6 N.J.R. 467(a), 7 N.J.R. 46(b).

Repealed by R.1989 d.610, effective December 18, 1989.

See: 21 N.J.R. 2724(a), 21 N.J.R. 3939(a).

SUBCHAPTER 3. REQUIREMENTS FOR PUBLIC SCHOOL TRANSPORTATION

6:21-3.1 Statutory basis

(a) Transportation of pupils attending public schools shall be furnished pursuant to N.J.S.A. 18A:39-1 et seq.

(b) District boards of education shall adopt policies and procedures governing the transportation of pupils to and from school and school related activities.

Amended by R.1989 d.610, effective December 18, 1989.

See: 21 N.J.R. 2724(a), 21 N.J.R. 3939(a).

New (b) added.

Case Notes

No abuse of discretion in changing designated bus stop for perceptually impaired 12-year-old. *Peary v. Board of Education of Township of Barnegat*, 93 N.J.A.R.2d (EDU) 167.

SUBCHAPTER 4. SCHOOL BUS CAPACITY

6:21-4.1 (Reserved)**6:21-4.2 Passengers**

A district board of education shall insure that only enrolled eligible public school pupils, eligible private school

pupils, adults serving as chaperons or authorized school personnel shall be transported.

Amended by R.1989 d.610, effective December 18, 1989.

See: 21 N.J.R. 2724(a), 21 N.J.R. 3939(a).

N.J.A.C. 6:21-4.2 was recodified as part of new N.J.A.C. 6:21-4.1 and N.J.A.C. 6:21-4.5 was amended and recodified to N.J.A.C. 6:21-4.2.

6:21-4.3 (Reserved)

Repealed by R.1989 d.610, effective December 18, 1989.

See: 21 N.J.R. 2724(a), 21 N.J.R. 3939(a).

6:21-4.4 (Reserved)

Recodified to N.J.A.C. 6:21-4.1 by R.1989 d.610, effective December 18, 1989.

See: 21 N.J.R. 2724(a), 21 N.J.R. 3939(a).

6:21-4.5 (Reserved)

Recodified to N.J.A.C. 6:21-4.5 by R.1989 d.610, effective December 18, 1989.

See: 21 N.J.R. 2724(a), 21 N.J.R. 3939(a).

SUBCHAPTERS 5 THROUGH 6C. (RESERVED)

SUBCHAPTER 7. STATE AID

6:21-7.1 General provisions

(a) Each district board of education shall be paid State aid for the transportation of eligible pupils to and from school based on a State-established dollar amount per pupil calculated according to the funding formula contained in N.J.S.A. 18A:7D-18. District boards of education shall submit data through the county superintendent's office for the calculation of State transportation aid on forms prescribed by the Commissioner of Education.

(b) For the purpose of State aid allocation, the words "remote from the school house" shall mean beyond 2½ miles for high school pupils (grades nine through 12) and beyond two miles for elementary pupils (grades kindergarten through eight), except for handicapped pupils. The "miles from home to school" shall be the shortest distance in miles and tenths from the entrance of the pupil's home to the nearest public entrance of the assigned school by a public roadway or public walkway.

(c) State aid for student transportation will be based on the following categories:

1. Public school students—Those resident students who live remote from their assigned school of attendance, as defined in (b) above;

2. Nonpublic school students—Those resident students who live remote from their school of attendance, as defined in (b) above, and meet the requirements of N.J.S.A. 18A:39-1; and

3. Special education students—Those resident students who live remote from their assigned school, as defined in (b) above, or require transportation services in accordance with N.J.A.C. 6:28-3.8.

R.1972 d.220, effective November 6, 1972.

See: 4 N.J.R. 231(a), 4 N.J.R. 302(a).

Repeal and New Rule: R.1989 d.610, effective December 18, 1989.

See: 21 N.J.R. 2724(a), 21 N.J.R. 3939(a).

Amended by R.1991 d.460, effective September 3, 1991.

See: 23 N.J.R. 1737(a), 2 N.J.R. 2636(a).

Text on limit of apportionment of State aid deleted; text on State aid recodified from 7.2 and revised to reflect new transportation aid calculations and student eligibility standards.

Prior annotations on limitation of apportionment of State aid:

Amended by R.1970 d.54, effective May 13, 1970.

See: 2 N.J.R. 30(e), 2 N.J.R. 48(a).

Amended by R.1973 d.267, effective September 20, 1973.

See: 5 N.J.R. 219(a), 5 N.J.R. 333(a).

Amended by R.1977 d.277, effective August 3, 1977.

See: 9 N.J.R. 416(d).

6:21-7.2 (Reserved)

Recodified by R.1991 d.460, effective September 3, 1991.

See: 23 N.J.R. 1737(a), 23 N.J.R. 2636(a).

Text on State aid recodified to 7.1.

6:21-7.3 (Reserved)

R.1972, d.220, effective November 6, 1972.

See: 4 N.J.R. 231(a), 4 N.J.R. 302(a).

Amended by R.1974 d.37, effective February 15, 1974.

See: 6 N.J.R. 5(c), 6 N.J.R. 100(a).

Repeal and New Rule: R.1989 d.610, effective December 18, 1989.

See: 21 N.J.R. 2724(a), 21 N.J.R. 3939(a).

Repealed by R.1991 d.460, effective September 3, 1991.

See: 23 N.J.R. 1737(a), 23 N.J.R. 2636(a).

Text on State aid approval—route/contract repealed.

6:21-7.4 (Reserved)

R.1989 d.610, effective December 18, 1989.

See: 21 N.J.R. 2724(a), 21 N.J.R. 3939(a).

Repealed by R.1991 d.460, effective September 3, 1991.

See: 23 N.J.R. 1737(a), 23 N.J.R. 2636(a).

Text on State aid approval—vehicles repealed.

6:21-7.5 (Reserved)

R.1989 d.610, effective December 18, 1989.

See: 21 N.J.R. 2724(a), 21 N.J.R. 3939(a).

Repealed by R.1991 d.460, effective September 3, 1991.

See: 23 N.J.R. 1737(a), N.J.R. 2636(a).

Text on State aid approval—salaries repealed.

6:21-7.6 (Reserved)

R.1989 d.610, effective December 18, 1989.

See: 21 N.J.R. 2724(a), 21 N.J.R. 3939(a).

Administrative Correction to (a)14.

See: 12 N.J.R. 366(b).

Repealed by R.1991 d.460, effective September 3, 1991.

See: 23 N.J.R. 1737(a), 23 N.J.R. 2636(a).

Text on State aid approval—other eligible items repealed.

SUBCHAPTERS 8 THROUGH 9. (RESERVED)

SUBCHAPTER 10. SMALL VEHICLE
REGULATIONS**6:21-10.1 Motor vehicle registration**

(a) The owner of a private small vehicle wishing to enter into a contract with a district board of education for the purpose of transporting pupils, to and from school and to and from related school activities, shall register the vehicle with the Division of Motor Vehicles. The Division of Motor Vehicles will recall the present passenger plates of the owner and issue school vehicle type 2 license plates at the prescribed registration fee. Owners of private small vehicles shall renew the vehicle registration on an annual basis.

(b) A district board of education wishing to transport pupils in a district-owned vehicle to and from school and to and from related school activities shall register the vehicle with the Division of Motor Vehicles. The Division of Motor Vehicles will provide the district board of education with school vehicle type 2 license plates at no registration fee. All no fee registration transactions with district boards of education will be valid for 36 months.

(c) Other types of motor vehicle registrations available for vehicles used to transport pupils to and from school and to and from school related activities are as follows:

1. Omnibus registration is for contracted small vehicles that are chartered for hire and used for 10 or more passengers excluding the driver.
2. Livery registration is for contracted small vehicles that are chartered for hire and used for nine passengers or less excluding the driver.
3. Handicapped registration plates are issued to family members or individuals who own or lease a vehicle for transportation of the handicapped.

Amended by R.1989 d.610, effective December 18, 1989.

See: 21 N.J.R. 2724(a), 21 N.J.R. 3939(a).

The word "must" replaced by "shall", throughout.

6:21-10.2 Transportation to and from related school activities

District boards of education may authorize the use of private vehicles with a capacity of eight or less for the transportation of public school pupils to and from related school activities, in accordance with policy and regulations adopted by the district board of education. The policy shall clearly stipulate procedures under which such transportation shall take place safely, including provision for appropriate and adequate insurance coverage and approval of activities and drivers.

6:21-10.3 Parent transporting his or her own child or children

A parent under contract with a district board of education to transport only his or her own child or children will not be required to possess a bus driver's license, to use a vehicle registered as a school bus, or to comply with the health examination prescribed for employees of the district board of education.

New Rule: R.1989 d.610, effective December 18, 1989.

See: 21 N.J.R. 2724(a), 21 N.J.R. 3939(a).

Amended by R.1994 d.404, effective August 1, 1994.

See: 26 N.J.R. 1997(a), 26 N.J.R. 3164(a).

SUBCHAPTER 11. DRIVERS

6:21-11.1 Requirements for drivers of school buses

(a) Drivers of school buses/vehicles shall meet all requirements of N.J.S.A. 18A:39-17, 18, 19 and 20 and of the New Jersey Division of Motor Vehicles as per N.J.S.A. 39:1-1 et seq.

(b) Drivers of school vehicles equipped with seat belts shall be required to wear them whenever the vehicle is in motion.

(c) Drivers shall hold a valid Commercial Driver License with appropriate endorsement(s) issued by the Division of Motor Vehicles.

Amended by R.1994 d.404, effective August 1, 1994.

See: 26 N.J.R. 1997(a), 26 N.J.R. 3164(a).

Case Notes

Legal fees incurred in bus drivers' successful defense of speeding charges not reimbursable. *Apgar v. Jackson Township Board of Education*, 93 N.J.A.R.2d (EDU) 799.

Disqualified school bus driver; rehabilitation not shown. 92 N.J.A.R.2d (EDU) 13.

6:21-11.2 Driver procedure

The driver shall complete daily a driver's school bus condition report as prescribed by the Commissioner of Education.

6:21-11.3 Emergency exit drills from school buses

(a) Schools shall organize and conduct emergency exit drills at least twice within the school year for all pupils who are transported to and from school.

1. All other students shall receive school bus evacuation instruction at least once within the school year.

(b) The school bus driver and bus attendant/aide shall participate.

(c) Drills shall be conducted on school property and be supervised by the principal or person assigned to act in a supervisory capacity.

Amended by R.1994 d.404, effective August 1, 1994.
See: 26 N.J.R. 1997(a), 26 N.J.R. 3164(a).

SUBCHAPTER 12. USE OF SCHOOL BUSES OTHER THAN TO AND FROM SCHOOL AND SCHOOL RELATED ACTIVITIES

6:21-12.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

"Contiguous district" means a district adjoining and adjacent to another district and sharing in some part a common boundary within the State of New Jersey. For a regional school district a contiguous school district shall be an adjoining and adjacent district which shares in some part a common boundary with the total regional district.

"Group" means 10 or more persons.

"Senior citizens" means those people of the State of New Jersey who are 60 years of age or older. Spouses of senior citizens may be less than 60 years of age.

6:21-12.2 General provisions

(a) The board of education of any district may permit the use of school buses, owned or leased by the school district, for the purpose of transporting senior citizens' groups to and from events within the districts or in any contiguous district, for transporting handicapped citizens in any district, and for transporting children and adults participating in a recreation or other program operated by the municipality or municipalities in which the district is located or the municipality in which any constituent district of a regional school district is located. Such events shall include, but not be limited to, civic, social, cultural, educational, recreational, nutritional and health programs and activities.

(b) The district board of education shall adopt a policy addressing the transportation of these groups. The policy shall require groups seeking the use of school buses to pay all or part of any costs incurred by the district board of education in permitting such use. The costs shall include, but not be limited to, the costs of fuel, driver salaries, insurance, and depreciation.

(c) The use of school buses by these groups requires the approval of the district board of education and shall not interfere with the transportation of school pupils.

(d) Buses shall be operated only by a person having a valid commercial driver license with appropriate endorsement(s) issued by the New Jersey Division of Motor Vehicles.

(e) School bus warning lamps shall not be used when transporting these groups.

(f) School buses, when used to transport these groups, shall load and unload off the public roadway so as not to interfere with traffic.

(g) District boards of education using buses for the transportation of these groups shall file proof of insurance coverage for such transportation with their county superintendents of schools. Insurance coverage shall include liability for bodily injury and property damage in the amount of \$1,000,000 combined single limit per occurrence.

Amended by R.1994 d.404, effective August 1, 1994.
See: 26 N.J.R. 1997(a), 26 N.J.R. 3164(a).

SUBCHAPTER 13. BID SPECIFICATIONS

6:21-13.1 General requirements

(a) The district board of education shall designate a committee, official or employee to prepare the specifications for each route or contract for which proposals are sought. A copy of the specifications shall be submitted to the county superintendent of schools prior to advertisement for bids. The specifications and advertisement for bids shall be approved and authorized by formal action of the district board of education.

(b) Any specification drawn for purposes of competitive bidding shall be drafted in a manner designed to encourage free, open and competitive bidding. Specifications shall not knowingly exclude prospective bidders by reason of the impossibility of performance or bidding by any one bidder. Any contract drawn which fails to meet the requirements of this subchapter shall be set aside by the district board of education.

(c) Potential or successful bidders shall not draft specifications or route descriptions.

(d) Specifications shall protect against discrimination in accordance with P.L. 1975, c.127 (N.J.S.A. 10:5-31 et seq.).

Amended by R.1994 d.404, effective August 1, 1994.
See: 26 N.J.R. 1997(a), 26 N.J.R. 3164(a).

6:21-13.2 Prescribed transportation bid specifications

(a) The district board of education shall prepare transportation bid specifications to include, but not be limited to, the requirements of this chapter.

(b) A separate route description shall be prepared for each individual route.

(c) A route is a selected or an established course of travel by a vehicle with definite stops for the purpose of loading and unloading students. Transportation routes should be arranged so that the buses will transverse the highways which serve the largest number of pupils within a reasonable time limit and at a minimum cost. Subject to exceptions, such as educationally handicapped pupils, buses are not required to leave the main route to pick up elementary pupils residing within 1½ miles of the route and high school pupils residing within two miles of the route. The district board of education shall reserve the right, with the approval of the county superintendent of schools, to change the route. If any change of route results, adjustment in the contract price shall be made in accordance with the bid. The basis for any adjustment will be the separate and distinct per mile, per vehicle or per pupil increase/decrease cost included in the bid.

(d) A route for the transportation of regular public and nonpublic school pupils shall be described from the first bus stop to the destination listing each street traveled. The schedule for arriving and departing and the vehicle capacity shall also be included.

(e) A route for the transportation of special education pupils shall be described listing each bus stop, the schedule for arriving and departing and the vehicle capacity. The statement "the direction of the vehicle from the last stop shall be along the safest most direct route to the destination" shall be included. In addition, language shall be included which will require the successful bidder to submit to the district board of education within 10 days of the start of the contract, a description of the actual streets traveled.

(f) The bid specifications shall include:

1. A copy of the school calendar;
2. A copy of the prescribed questionnaire form;
3. A provision for emergency closings;
4. Conditions for cancellation of contracts;
5. The limits of liability insurance;
6. The type(s) of bonding required;
7. Except for per pupil bids, a statement which clearly prohibits the commingling of students unless authorized to do so by the district board of education through the joint transportation agreement process;
8. The need for specialized equipment, if applicable;
9. Restrictions due to student classification, if applicable;
10. A statement that all equipment shall meet current specifications in accordance with Federal and State law,

the rules of the State Board of Education, and any additional specifications of the district board of education;

11. A statement that all contractors shall comply with current applicable New Jersey Statutes, regulations, and policies and procedures of the district board of education governing pupil transportation;

12. A bid sheet which will be required to be submitted by bidders to the district board of education. The bid sheet shall include a provision to request bids on a per route basis for regular, nonpublic and in-district handicapped students and on a per route, per vehicle, per pupil, per mileage basis for the transportation of out-of-district handicapped students;

13. The bid sheet shall include a separate provision to request adjustments to the contract on a per mile basis for public and nonpublic regular and in-district handicapped routes and on a per mile, per pupil, per vehicle basis for out-of-district special education transportation contracts;

14. The bid sheet shall include a separate provision to request bulk/combo bids, if applicable;

15. A requirement for submission of an affidavit of noncollusion;

16. A requirement for submission of a stockholder's disclosure statement;

17. A provision for the acceptance of bulk/combo bids, if applicable;

18. A statement that bids are to be placed in a sealed envelope and plainly marked "TRANSPORTATION BID FOR ROUTE OR CONTRACT NO. _____, SCHOOL DISTRICT OF _____" and presented to the board in session, authorized committee, designated official or employee of the board.

Amended by R.1994 d.404, effective August 1, 1994.
See: 26 N.J.R. 1997(a), 26 N.J.R. 3164(a).

SUBCHAPTER 14. BOND

6:21-14.1 Bidder guarantee

(a) A bidder shall be required to submit a guarantee payable to the district board of education that if a contract is awarded, the successful bidder will enter into a contract and will furnish a performance bond. Cash or negotiable securities are not authorized.

(b) The district board of education, at its discretion, shall specify the type guarantee required: certified check, cashier's check or bid bond.

(c) The district board of education shall require every bidder to complete a questionnaire form as prescribed by the Commissioner of Education.

(d) The amount to be deposited shall be a minimum of five percent of the bid, but in no case may the certified check, cashier's check or bid bond exceed \$50,000.

(e) The bid bond, cashier's or certified check shall be forfeited upon refusal of the successful bidder to execute a contract; otherwise, guarantee shall be returned when the contract is executed and a surety bond filed.

(f) Except for the three lowest bidders, the bidder guarantee shall be returned within 10 days after the opening of the bids (Saturdays, Sundays and holidays excepted).

Amended by R.1994 d.404, effective August 1, 1994.
See: 26 N.J.R. 1997(a), 26 N.J.R. 3164(a).

6:21-14.2 Surety bonds

(a) A surety bond shall be provided for the faithful performance of all provisions of the specifications and for all matters which may be contained in the notice to bidders relating to the performance of the contract.

(b) The district board of education, at its discretion, may require one type of surety bond or allow for either a corporate surety bond or personal surety bond.

(c) The questionnaire form prescribed by the Commissioner of Education shall be made part of the bidding documents furnished to potential bidders.

6:21-14.3 Corporate surety bond

(a) The district board of education may, at its discretion, require a surety bond furnished by a corporate surety company recognized by the State Department of Insurance as being authorized to do business in the State of New Jersey.

(b) Contracts and renewals shall be accompanied by a corporate surety bond for the total annual amount of the contracts. Bonding for multi-year contracts shall be submitted each year in the annual amount of the contract or may be for such amount in excess of the proportionate annual amount as the district board of education shall determine. Contracts awarded on a per diem basis shall be bonded in the per annum amount based on the actual number of days transportation is required by the school calendar or, at the discretion of the district board of education, may be in the per annum amount based on 180 days.

(c) If it shall be necessary to substitute a corporate surety, the contractor shall furnish promptly the same information for the new corporate surety as required for the original corporate surety on the prescribed questionnaire form accompanying the bid.

Amended by R.1994 d.404, effective August 1, 1994.
See: 26 N.J.R. 1997(a), 26 N.J.R. 3164(a).

6:21-14.4 Personal surety bond

(a) The district board of education, at its discretion, may permit a personal surety bond.

(b) Contracts and renewals shall be accompanied by a personal surety bond for the total annual amount of the contracts. Bonding for multi-year contracts shall be submitted each year in the annual amount of the contract or may be for such amount in excess of the proportionate annual amount as the district board of education shall determine. Contracts awarded on a per diem basis shall be bonded in the per annum amount based on the actual number of days transportation is required by the school calendar or, at the discretion of the district board of education, may be in the per annum amount based on 180 days.

(c) Personal bonds shall be signed by at least two responsible sureties, who are residents of New Jersey, neither of whom shall be a member of the district board of education.

(d) If it shall be necessary to substitute a bondsperson, the contractor shall promptly furnish the same information for the new bondsperson as required for the original bondsperson on the prescribed questionnaire form accompanying the bid.

(e) The district board of education shall have the right to reject an individual surety offer, and may find it beneficial to request a certification that the individual's net worth is sufficient to cover the bond.

(f) Personal surety bonds shall be submitted on the Personal Surety Bond for Pupil Transportation Contract form as prescribed by the Commissioner.

Amended by R.1994 d.404, effective August 1, 1994.
See: 26 N.J.R. 1997(a), 26 N.J.R. 3164(a).

SUBCHAPTER 15. BIDDING

6:21-15.1 Responsibility of district board of education

(a) District boards of education shall have the option of annually bidding all transportation contracts or awarding annual extensions of an original contract. However, no contract for the transportation of pupils to and from school shall be made, when the amount to be paid during the school year for such transportation shall exceed the bid threshold limit and have the approval of the county superintendent of schools, unless the district board of education making such contract shall have first publicly advertised for bids. Such advertisement shall be published once in a newspaper circulating in the district at least 10 days prior to the date fixed for receiving proposals for such transportation. All bids shall be advertised with the time and place fixed to each advertisement for submission of proposals to the district board of education. No proposal shall be opened previous to the hour designated in the advertisement and none shall be received thereafter. The board or designated official shall unseal bids in the presence of those in attendance and publicly announce the contents.

(b) The district board of education shall reserve the right to reject any or all bids.

(c) It is recommended that the district boards of education keep a list of the names of all persons who take copies of the specifications.

(d) All bidding shall be designed to prevent fraud, favoritism and extravagance, to safeguard the taxpayers and protect the lowest responsible bidder.

(e) The bid specifications must be definite, precise and impose common standards.

(f) The bid specifications and any revisions to the bid specifications shall be furnished to all prospective bidders and shall not restrict competitive bidding.

(g) Variations from the bid specifications as prescribed by the State Board must be reasonable and are subject to review by the Commissioner and the State Board of Education.

(h) When bid specifications are purposely formed to deter rather than to invite genuine competition, an award to the intentionally favored bidder shall be set aside.

Amended by R.1994 d.404, effective August 1, 1994.
See: 26 N.J.R. 1997(a), 26 N.J.R. 3164(a).

6:21-15.2 Responsibility of the bidder

(a) The bidder shall submit the bid on the bid sheet contained in the bid specifications. Bids shall be made on a per route basis for regular, nonpublic and in-district handicapped pupils or on a per route, per vehicle, per pupil, per mileage basis for the transportation of out-of-district handicapped pupils.

(b) The bids shall include a separate cost for adjusting the contract as follows:

1. On a per mile basis for public and nonpublic regular routes and in-district special education routes; and
2. On a per mile, per pupil, per vehicle basis in accordance with the bid specifications for out-of-district special education routes.

(c) The bids shall include a separate cost for an attendant/aide on a per diem basis as required by the bid specifications.

(d) The bid submitted to the district board of education shall also include the following:

1. A certificate of liability insurance;
2. Affirmative action documents in accordance with P.L. 1975 c. 127;
3. A stockholder's disclosure statement;

4. The completed questionnaire form as prescribed by the Commissioner of Education; and

5. An affidavit of noncollusion.

(e) A bid bond, cashier's or certified check as required by the bid specifications shall accompany the bid.

(f) A surety (performance) bond shall be required equal at least to the amount of one year of the contract. In the case of contracts for more than one year, the bond may be for such amount in excess of the proportionate annual amount as the board shall determine.

(g) Bids are to be placed in a sealed envelope and plainly marked "TRANSPORTATION BID FOR ROUTE OR CONTRACT NO. _____ SCHOOL DISTRICT OF _____" and presented to the board in session, authorized committee, designated official or employee of the district board of education.

Amended by R.1994 d.404, effective August 1, 1994.
See: 26 N.J.R. 1997(a), 26 N.J.R. 3164(a).

Case Notes

Allowing bus companies to amend bus route contract bids to include statement of noncollusion did not require bids to be invalidated. *University Bus Company v. State-Operated School District of City of Paterson*. 93 N.J.A.R.2d (EDU) 553.

6:21-15.3 (Reserved)

Repealed by R.1994 d.404, effective August 1, 1994.
See: 26 N.J.R. 1997(a), 26 N.J.R. 3164(a).
Section was "Questionnaire".

6:21-15.4 (Reserved)

6:21-15.5 Bulk/combination bids

(a) District boards of education may receive bulk or combination bids.

(b) Bulk or combination bids shall include individual route/contract costs.

(c) If a percentage deduction is stipulated in the bid, it shall be applied to each route/contract bid when all routes/contracts are awarded.

(d) Bulk bidding shall not be used to intentionally eliminate competitive bidding.

6:21-15.6 Receiving and opening bids

(a) Unless the proposals are to be received in a meeting of the district board of education, a committee, officer, or employee of the district board of education must be designated to receive the proposals at a time and place designated by the district board of education and included in the advertisement for bids. At the time and place so designated and advertised, the district board of education or any committee, officer, or employee designated by the district board

of education to do so, shall receive the proposals and proceed to unseal them and publicly announce their contents in the presence of the bidders or their agents. No proposals shall be opened previous to the hour designated in the advertisement and none shall be received thereafter.

(b) A district board of education cannot impose new conditions and bidders cannot be allowed to change bids or make oral bids after they are opened. Specifications may not be modified after bids have been received and the contract awarded to one of the bidders upon revised specifications.

(c) Bulletins issued to explain minor details of specifications and to make minor changes will not invalidate the award of a contract to the successful bidder when it appears that all such bulletins were received in advance of the submission of bids by all prospective and actual bidders. The officer of the board responsible for distributing specifications to prospective bidders shall keep a list of their names and addresses so that bulletins can be issued to them, if necessary. If, in good faith, a board finds it has made a mistake in its specifications which cannot be corrected, it may reject all bids and readvertise.

Amended by R.1994 d.404, effective August 1, 1994.
See: 26 N.J.R. 1997(a), 26 N.J.R. 3164(a).

Case Notes

Low bidder on contract to supply school buses not entitled to emergent relief. *Wolffington Body Company, Inc. v. Hunterdon Central Board of Education of Hunterdon Central Regional High School District*, 92 N.J.A.R.2d (EDU) 622.

SUBCHAPTER 16. CONTRACTS

6:21-16.1 Rules

(a) All contracts for transportation or renewals thereof shall be made in triplicate and shall be submitted to the county superintendent of schools for approval on or before September 1 in each year. Contracts awarded after September 1 of each year shall be submitted to the county superintendent of schools for approval within 30 days after the award of the contract.

(b) Each contract or renewal submitted to the county superintendent of schools shall be accompanied by:

1. A bid specification with original contracts;
2. A certified copy of the minutes of the district board of education authorizing the contract;
3. A certificate of insurance;
4. A bid newspaper advertisement with original contracts;
5. A surety (performance) bond;

6. Affirmative action documentation;

7. A stockholders' disclosure statement with original contracts; and

8. A completed noncollusion affidavit with original contracts.

(c) Non-bid contracts between a district board of education and a parent or guardian, transporting only his or her own child or children shall be accompanied by:

1. A certified copy of the minutes of the district board of education authorizing the contract;

2. A certificate of insurance; and

3. A copy of a valid driver's license and vehicle registration.

(d) Notwithstanding the county superintendent's approval, as noted in N.J.A.C. 6:21-7.1, State aid shall be subject to modifications by the Commissioner of Education for good cause shown.

(e) If the county superintendent of schools approves the contract or renewal, one copy shall be filed with the county superintendent, one with the district board of education, and one with the contractor.

(f) All transportation contracts require the approval of the county superintendent of schools regardless of whether State aid is involved.

Amended by R.1986 d.156, effective May 5, 1986.
See: 18 N.J.R. 138(a), 18 N.J.R. 975(a).

New (c) and (e); old (c) recodified to (d) and Note recodified to (f).
Amended by R.1989 d.610, effective December 18, 1989.
See: 21 N.J.R. 2724(a), 21 N.J.R. 3939(a).

Further delineation of what must accompany a contract or renewal.
Amended by R.1994 d.404, effective August 1, 1994.
See: 26 N.J.R. 1997(a), 26 N.J.R. 3164(a).

Case Notes

School bus contract was in violation of law and ultra vires act by Board of Education. *Hudson County Transport, Inc. v. State-Operated School District of the City of Jersey City*, 92 N.J.A.R.2d (EDU) 635.

Application of rules to breach of contract. *Finkle v. Bd. of Ed., Paterson, Passaic Cty.*, 1976 S.L.D. 726.

Bidding requirements. *Bd. of Ed., Wall, Monmouth Cty. v. Bureau of Pupil Transp., Div. of Field Services, N.J. Dept. of Ed.*, 1976 S.L.D. 643.

County Superintendent's authority to withhold State Aid reimbursement. *Bd. of Ed., Union Reg. H.S. Dist. No. 1 v. West Union Cty. Supt. of Schools*, 1975 S.L.D. 586, 1975 S.L.D. 592.

6:21-16.2 Form of contract

All transportation contracts shall be made on forms prescribed by the Commissioner of Education.

Case Notes

Failure to comply with provision, standing alone, is sufficient cause to set aside contract. *Coaches of Eight, Inc. v. Bd. of Ed. of Lakehurst and W.F. White, Cty. Supt. of Schools*, 1978 S.L.D. 416.

Application of rules to breach of contract. *Finkle v. Bd. of Ed., Paterson, Passaic Cty.*, 1976 S.L.D. 726.

6:21-16.3 Rules constitute part of contract

(a) Contracts made pursuant to these rules shall be held to include these rules.

(b) If any person operating a school bus under contract with a district board of education shall fail to comply with any of the rules governing pupil transportation, the district board of education shall immediately notify such person in writing of his or her failure to comply.

(c) If the violation is repeated, the district board of education may require the violator to show cause at a hearing why his or her failure to comply should not be deemed a breach of contract.

(d) If, after due notice and hearing, the district board of education shall determine that a breach of contract exists, it may call upon the bondsperson or surety company, as the case may be, to perform the contract or to reimburse the district board of education for any financial loss resulting from the breach of the contract, and may annul the contract.

(e) Any person operating a bus under contract may appeal from the action of the district board of education in the manner provided by N.J.S.A. 18A:6-24, 25, 27, 28 and 29.

Amended by R.1989 d.610, effective December 18, 1989.

See: 21 N.J.R. 2724(a), 21 N.J.R. 3939(a).

Clarified that it is the "district" boards of education with whom contracts are made.

Amended by R.1994 d.404, effective August 1, 1994.

See: 26 N.J.R. 1997(a), 26 N.J.R. 3164(a).

Case Notes

Application of rules to breach of contract. *Finkle v. Bd. of Ed., Paterson, Passaic Cty.*, 1976 S.L.D. 726.

6:21-16.4 Term of contract

(a) The district board of education shall indicate the term of the contract not exceeding four years.

1. Beginning in the second year, a multi-year contract may be increased annually by a maximum of 7½ percent of the original yearly contract amount.

(b) Any contract for transportation is without force or effect until approved by the county superintendent of schools.

Amended by R.1989 d.610, effective December 18, 1989.

See: 21 N.J.R. 2724(a), 21 N.J.R. 3939(a).

Specified that the district board of education shall indicate the term of the contract.

Amended by R.1994 d.404, effective August 1, 1994.

See: 26 N.J.R. 1997(a), 26 N.J.R. 3164(a).

6:21-16.5 Awarding contracts

(a) Prior to the opening of school and in sufficient time to publicly advertise for bid, district boards of education shall assess their pupil transportation needs. If the assessment indicates that pupil transportation services in the aggregate will exceed the statutory bid limit, except for contracts qualifying for renewal, all transportation services shall be bid in accordance with N.J.S.A. 18A:39-3.

(b) The contract shall be awarded to the lowest responsible bidder by formal action of the district board of education in a public meeting. The district board of education is not authorized to delegate its power to enter into a transportation contract.

(c) Contracts for the transportation of handicapped children to and from any other school district shall be awarded by formal action of the district board of education in a public meeting to the lowest responsible bidder and whose bid the board has determined is the least costly method. Documentation shall be on file to support the district board of education's determination for the least costly method. The board is not authorized to delegate its power to enter into a transportation contract.

(d) Any award of a contract made by a district board of education after advertisement must be according to the terms advertised to prospective bidders. Each bidder shall be compelled to conform to every substantial condition imposed upon other bidders.

(e) After a contract has been awarded, a bidder cannot be relieved from conforming to the conditions imposed upon him or her in the specifications and cannot substitute something which does not conform to the specifications.

(f) A district board of education cannot reject a bid of the lowest bidder upon the ground that he or she is not responsible without giving him or her a hearing upon the facts. To determine that a bidder is not responsible, the district board of education must find as a fact, after notice and a public hearing, that the bidder is so lacking in experience, financial ability, equipment and facilities to justify that he or she would be unable to carry out the contract, if awarded.

(g) The lack of ability upon the part of a contractor to work in harmony or the district board of education's inability to enforce the terms of a previous contract cannot be controlling factors in determining the bidder's responsibility. Disputes involving controverted questions of fact with reference to the performance of a previous contract do not constitute grounds for declaring a bidder irresponsible, if such disputed matters can be taken care of under a contract properly safeguarding the public interest with a contractor who is financially responsible.

Amended by R.1989 d.610, effective December 18, 1989.

See: 21 N.J.R. 2724(a), 21 N.J.R. 3939(a).

Added new subsections (a) and (c) specifying bid requirements.
Amended by R.1994 d.404, effective August 1, 1994.
See: 26 N.J.R. 1997(a), 26 N.J.R. 3164(a).

6:21-16.6 High, collusive or no bids

If on two occasions no bids were received, or on two occasions bids were rejected by the district board of education because they were too high, contracts shall be awarded pursuant to N.J.S.A. 18A:18A-5(c) and (d).

New Rule: R.1989 d.610, effective December 18, 1989.
See: 21 N.J.R. 2724(a), 21 N.J.R. 3939(a).

6:21-16.7 Quoted contracts

(a) Quotations may be sought after the opening of school for unanticipated to and from school transportation services. The process of soliciting quotations cannot be used by district boards of education to intentionally split transportation routes into smaller parts so as to avoid reaching the amount determined by the Governor as the formal competitive bidding requirement.

(b) Quoted contracts may be issued for unanticipated to and from school transportation services provided the following requirements are met.

1. At least three quotations shall be sought and documented;
2. Quotations shall be solicited on a per diem basis;
3. Quoted contracts under the bid threshold may be in effect for the balance of the school year but must be included in the aggregate cost of transportation services for the ensuing school year;
4. Quoted contracts over the bid threshold may be issued for a period not to exceed 90 calendar days. The competitive bid process must then be completed and awarded contracts implemented for the balance of the school year; and
5. Quoted contracts shall not be renewed.

New Rule: R.1989 d.610, effective December 18, 1989.
See: 21 N.J.R. 2724(a), 21 N.J.R. 3939(a).
Amended by R.1994 d.404, effective August 1, 1994.
See: 26 N.J.R. 1997(a), 26 N.J.R. 3164(a).

6:21-16.8 Renewing contract

(a) Annual extensions of an original contract, approved by the county superintendent of schools, are permitted provided:

1. The contract was entered into through competitive bidding;
2. The terms of contract remain the same; and

3. There is no increase in the annual amount of the contract to the district board of education or the increase in the original contractual base amount as a result of such extension does not result in an "effective increase" of more than 30 percent regardless of the fact that the route description has changed or an aide has been added or removed, except in cases where a student rider is newly assigned to a route during the school year and extra mileage is necessary. Any such arrangement shall be approved by the county superintendent of schools and shall be bid for the next school year. The original contract base amount is the original contract amount plus any adjustments in accordance with the terms of the contract made by addenda during the original year.

4. The school destination shall remain the same as the original contract. Destination is defined as the physical location of the original school(s).

(b) When it is necessary to change the bus type, an immediate rebid of a contract renewal is not required. Any such change shall be approved by the district board of education and shall be bid for the next school year.

New Rule: R.1989 d.610, effective December 18, 1989.
See: 21 N.J.R. 2724(a), 21 N.J.R. 3939(a).
Amended by R.1994 d.404, effective August 1, 1994.
See: 26 N.J.R. 1997(a), 26 N.J.R. 3164(a).

6:21-16.9 Addendum

(a) An addendum shall be required to adjust an existing contract or contract renewal.

1. An addendum to contract/contract renewal for regular pupils and in-district handicapped pupils shall be calculated based on the increase/decrease mileage adjustment stated in the original bid.

2. An addendum to contract/contract renewal for out-of-district handicapped pupils bid on a per route, per pupil, per mileage or per vehicle basis, shall be calculated based on the increase/decrease adjustment stated in the original bid.

3. An addendum to contract/contract renewal for the purpose of adding an attendant/aide may be a negotiated cost, provided the cost does not exceed the bid threshold.

(b) An addendum to contract/contract renewal shall be submitted on the prescribed Contract Addendum form to the county superintendent of schools for approval within 30 days of board approval.

(c) Increased bonding is required when an addendum is added to an existing contract increasing the cost.

1. When an addendum is added to the contract, increasing the cost, additional bonding coverage will not be required if the pro-rated cost of the original contract plus the additional cost of the addenda does not exceed the amount of the original bond.

(d) A certified copy of the minutes of the district board of education authorizing the adjustment shall accompany the Contract Addendum form when submitted to the County Superintendent of Schools.

New Rule: R.1989 d.610, effective December 18, 1989.
See: 21 N.J.R. 2724(a), 21 N.J.R. 3939(a).
Amended by R.1994 d.404, effective August 1, 1994.
See: 26 N.J.R. 1997(a), 26 N.J.R. 3164(a).

6:21-16.10 Transferring contracts and contract renewals

(a) Whenever a contractor has entered into or intends to enter into an agreement to sell or assign to a purchaser all of the contractor's rights and liabilities with respect to the transportation contract between the district board of education and the contractor, such assignment requires the approval of the district board of education and the county superintendent of schools.

(b) The transfer shall impose no additional cost to the district board of education.

(c) All terms of the original contract shall remain in effect.

(d) The assignment between the district board of education and the purchaser shall not become effective until the purchaser provides:

1. A certificate of insurance;
2. A surety (performance) bond;
3. A stockholders' disclosure statement;
4. Affirmative action documentation; and
5. An affidavit of noncollusion.

(e) The prescribed "Pupil Transportation Contract Transfer Agreement" shall be completed for each contract/multi-contract.

(f) Certified board minutes approving the transfer of the contract must accompany the "Pupil Transportation Contract Transfer Agreement" when it is submitted to the County Superintendent for approval.

New Rule: R.1989 d.610, effective December 18, 1989.
See: 21 N.J.R. 2724(a), 21 N.J.R. 3939(a).
Amended by R.1994 d.404, effective August 1, 1994.
See: 26 N.J.R. 1997(a), 26 N.J.R. 3164(a).

6:21-16.11 Joint transportation agreements

(a) Two or more district boards of education may provide jointly for the transportation of pupils to and from any school(s), within or outside the district or counties.

(b) Whenever in the judgment of the county superintendent of schools transportation of pupils could be more economically accomplished by joint transportation, he or she may order such joint transportation, assign the administra-

tion to one district board of education as host and prorate the cost to the joining district boards of education.

(c) The district board of education providing the transportation, either by district-owned vehicle or contracted vehicle, will be referred to as the "host".

(d) The "host" district board of education will be responsible for initiating the joint agreement and insure that when transportation is provided by contracted services, contracts meet the requirements for approval by the County Superintendent of Schools.

(e) Four copies of the joint transportation agreement form prescribed by the Commissioner shall be submitted to the county superintendent of schools for approval. Joint agreements between district boards of education located in more than one county shall be submitted to both county superintendents of schools for approval.

(f) Certified copies of board minutes for each district board of education involved in the joint agreement shall accompany the joint transportation agreement submitted to the county superintendent of schools.

(g) Joint agreements issued between district boards of education in the same county shall be sent to the county superintendent for approval within 60 days of the agreement.

(h) Joint agreements issued between district boards of education in different counties shall be sent to the county superintendents for approval within 90 days of the agreement.

New Rule: R.1989 d.610, effective December 18, 1989.
See: 21 N.J.R. 2724(a), 21 N.J.R. 3939(a).
Amended by R.1994 d.404, effective August 1, 1994.
See: 26 N.J.R. 1997(a), 26 N.J.R. 3164(a).

SUBCHAPTERS 17 THROUGH 18. (RESERVED)

SUBCHAPTER 19. PUPIL TRANSPORTATION GOVERNANCE AND ADMINISTRATION

6:21-19.1 General authority

(a) The Commissioner shall provide for a thorough evaluation of district boards of education pupil transportation operations and fiscal procedures to determine compliance with the provisions of this chapter and N.J.S.A. 18A:39-1 et seq.

(b) The Commissioner may withhold or adjust transportation aid for district boards of education which are noncom-

pliant with the provisions set forth in this chapter. For example, transportation aid may be adjusted or withheld for the improper award of contracts, use of unauthorized vehicles or inaccurate data submitted for State aid.

Amended by R.1991 d.460, effective September 3, 1991.

See: 23 N.J.R. 1737(a), 23 N.J.R. 2636(a).

Commissioner's authority to review, withhold or adjust State aid specified.

6:21-19.2 General district procedures

(a) District boards of education shall annually submit pupil transportation contracts to the county superintendent of schools as required by law and regulation for review as to form and compliance with N.J.A.C. 6:21-13 through 17.

(b) The district board of education auditor shall submit, by November 1st of each year, the district audit questionnaire form as prescribed by the Commissioner for pupil transportation to the county superintendent of schools for review.

(c) District boards of education shall submit reports, through the county superintendent's office, necessary for the calculation of State transportation aid and the analysis of the numerical values (cost factors) contained in the transportation aid formula in accordance with N.J.S.A. 18A:7D-18 and 19.

Amended by R.1991 d.460, effective September 3, 1991.

See: 23 N.J.R. 1737(a), 23 N.J.R. 2636(a).

Process for calculation of transportation aid specified.

6:21-19.3 Regulatory review

(a) The county superintendent of schools shall conduct a review of district boards of education transportation operations in accordance with N.J.A.C. 6:21-16.1.

(b) The Bureau of Pupil Transportation field representative shall conduct quarterly reviews of the county superintendent's administration of pupil transportation. This review shall include a sampling of records that have been submitted to the county superintendent of schools by district boards of education to determine compliance with the provisions of this chapter.

(c) The Bureau of Pupil Transportation field representative shall conduct on site annual reviews of district boards of education pupil transportation procedures, operations and fiscal records as directed by the Commissioner and shall notify the district board of education and county superintendent of the findings.

(d) The Bureau of Pupil Transportation shall verify data, required by the Quality Education Act, submitted by district boards of education for State transportation aid.

Amended by R.1991 d.460, effective September 3, 1991.

See: 23 N.J.R. 1737(a), 23 N.J.R. 2636(a).

Review of transportation operations specified.

Amended by R.2000 d.358, effective September 5, 2000.

See: 32 N.J.R. 1712(a), 32 N.J.R. 3332(b).

In (a), updated N.J.A.C. reference.

6:21-19.4 Corrective plan

Any district board of education found to be deficient as a result of the Bureau of Pupil Transportation review shall submit a corrective action plan addressing the specific recommendations to the county superintendent of schools and the Bureau of Pupil Transportation.

Amended by R.1991 d.460, effective September 3, 1991.

See: 23 N.J.R. 1737(a), 23 N.J.R. 2636(a).

Bureau of Pupil Transportation also to receive corrective plan.

6:21-19.5 Compliance investigation

(a) The Division of Compliance shall conduct a complete inspection of pupil transportation procedures, operations, and costs for any district board of education identified as deficient in the administration of pupil transportation as a result of the Bureau of Pupil Transportation review or State Department of Education monitoring process under any one of the following circumstances:

1. The Bureau of Pupil Transportation review indicates that conditions exist within the district that may prevent the successful implementation of a corrective action plan.
2. A district board of education fails to implement and adhere to the corrective action plan that has been approved by the county superintendent of schools; or
3. A district fails to achieve certification based upon deficiencies noted in pupil transportation and does not demonstrate reasonable progress pursuant to N.J.A.C. 6A:30-2.5(b).

Amended by R.1991 d.460, effective September 3, 1991.

See: 23 N.J.R. 1737(a), 23 N.J.R. 2636(a).

Stylistic changes.

Amended by R.2000 d.358, effective September 5, 2000.

See: 32 N.J.R. 1712(a), 32 N.J.R. 3332(b).

In (a)3, updated N.J.A.C. reference.

SUBCHAPTER 20. CHARTER SCHOOL TRANSPORTATION

Subchapter Historical Note

Subchapter 20, Charter School Transportation, was recodified from N.J.A.C. 6A:11-4 by R.2000 d.403, effective October 2, 2000. See: 32 N.J.R. 2523(a), 32 N.J.R. 3560(a).

6:21-20.1 General requirements

(a) A district board of education shall have the following responsibilities for transportation:

1. Transportation or aid in lieu of transportation shall be provided pursuant to N.J.S.A. 18A:39-1 et seq. to students in kindergarten through grade eight who live more than two miles and to students in grades nine through 12 who live more than two and one-half miles from the charter school that they attend. Transportation shall not be required for students attending a school other than a public school when the only transportation provided by districts in which the students reside is for school children transported pursuant to N.J.S.A. 18A:46-1 et seq. or for students transported to a vocational, technical or other public school offering a specialized program. A charter school shall be considered a public school offering a specialized program.

2. The transportation of students to and from a charter school shall be the responsibility of the district board of education of the school district in which each student resides.

3. The district board of education shall provide transportation in accordance with the charter school calendar.

4. By August 1, the district board of education of the school district in which each student resides shall notify the parents or legal guardians and the lead person of the charter school regarding the determination of the request for transportation services.

(b) A charter school shall have the following responsibilities for transportation:

1. The lead person of the charter school shall notify each student's district board of education, in writing, of the need for transportation at the time of each student's registration in the charter school or by May 15 preceding the school year in which transportation services are to be provided, whichever is later. This notification shall include the student's name, address, grade, one-way mileage from the student's home to the charter school and the name of the last school of attendance if any.

2. The lead person of the charter school shall submit the school calendar to the district board(s) of education responsible for providing transportation services by May 15 preceding the school year in which transportation is being requested.

3. Between January 1 and January 10 and between May 1 and May 10 of each year, the lead person of the charter school shall certify, on forms prescribed by the Commissioner, the students that were enrolled for the first half and second half of the academic year respectively. The certification forms shall be returned to each student's district board of education by January 15 certifying the student's attendance for the first half of the academic year and by May 15 certifying the student's attendance for the second half of the academic year.

Amended by R.1998 d.292, effective June 1, 1998.
See: 30 N.J.R. 588(a), 30 N.J.R. 2084(a).
Rewrote (a)1.

6:21-20.2 Transportation of resident students

The transportation of students to and from a charter school who reside in the district of residence in which the charter school is located shall be provided on the same terms and conditions as transportation is provided to students attending the schools of the district board(s) of education.

6:21-20.3 Transportation of non-resident students

(a) The district board of education of the school district in which each student resides shall provide transportation of students to and from a charter school who reside outside the district of residence in which the charter school is located within an annual maximum statutorily established amount per student expenditure in accordance with N.J.S.A. 18A:39-1 to be made in two installments.

1. If such transportation will exceed this maximum allowable expenditure, then the parents or legal guardians of each student may choose to pay the amount over the annual maximum statutorily established amount with the district board of education in which the student resides being required to provide transportation or the parents or legal guardians of each student shall be entitled to the annual maximum statutorily established amount as aid in lieu of transportation. The parents or legal guardians of each student shall notify in writing their district board of education of their choice of paying the additional amount or of receiving aid in lieu of transportation.

2. Once the parents or legal guardians of each student have notified their district board of education that they agree to pay the amount over the annual maximum statutorily established amount, the parents or legal guardians are no longer entitled to receive aid in lieu of transportation for that school year.

3. The payment of aid in lieu of transportation may be adjusted for late registration or early withdrawal.

4. The district board of education of the school district in which each student resides shall pay aid in lieu of transportation for each half of the academic year after the certification form verifying attendance is submitted by the lead person of the charter school and the voucher for payment, supplied to the parents or legal guardians by each student's district board of education, is properly completed and returned to each student's district board of education. A district board of education shall not be required to pay aid in lieu of transportation when it receives the voucher for payment after the close of the fiscal year.